

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Erin Sweeney	Team: Squad #8	CCRB Case #: 201501872	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 12/17/2014 1:15 PM	Location of Incident: [REDACTED]	Precinct: 90	18 Mo. SOL 6/17/2016	EO SOL 6/17/2016	
Date/Time CV Reported Sat, 01/31/2015 5:11 PM	CV Reported At: Mayor's Office	How CV Reported: E-mail	Date/Time Received at CCRB Mon, 03/16/2015 3:57 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POF Sheryce Mccollough	00521	935504	090 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Mark Mcrae	11418	935293	M E L D
2. POM Kenneth Melendez	16006	949319	090 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Sheryce Mccollough	Force: PO Sheryce Mccollough used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.POF Sheryce Mccollough	Discourtesy: PO Sheryce Mccollough spoke rudely to § 87(2)(b) [REDACTED]	[REDACTED]
C.POF Sheryce Mccollough	Force: PO Sheryce Mccollough used pepper spray against § 87(2)(b) [REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b) [REDACTED]	[REDACTED]	[REDACTED]

### Case Summary

On December 17, 2014, at approximately 1:15p.m., Police Officers Sheryce McCollough, Mark McRae, and Kenneth Melendez of the 90<sup>th</sup> Precinct arrived at § 87(2)(b) in Brooklyn. The officers were there to arrest § 87(2)(b) on an open complaint for harassment. § 87(2)(b) alleged the following: PO McCollough grabbed her hoodie and pushed her into a chair (**Allegation A**). PO McCollough grabbed § 87(2)(b)'s ponytail and said, "Cheap ass hair," (**Allegation B**). PO McCollough handcuffed § 87(2)(b) and then pepper sprayed her (**Allegation C**). § 87(4-b), § 87(2)(g) was treated by EMS and was taken to § 87(2)(b).

### Mediation, Civil and Criminal Histories

- This case was not eligible for mediation because § 87(2)(b) § 87(2)(a) Fam. Ct. Act § 381.3, § 87(2)(b)
- A FOIL request filed on June 10, 2015, revealed that no Notice of Claim had been filed in regard to this incident (enc. 10B).
- § 87(2)(b) § 87(2)(a) Fam. Ct. Act § 381.3

### Civilian and Officer CCRB Histories

- PO McCollough has been a Member of Service for ten years and has no previous CCRB cases (enc. 2A).
- § 87(2)(b)

### Potential Issues

- PO Mark McRae, a witness officer, is listed in CTS as being assigned to Military Extended Leave Desk. As such, he was unable to be interviewed (enc. 2B).

### Findings and Recommendations

#### Medical Records

- § 87(2)(b)'s medical records indicate that she stated she "refused arrest because the police were manhandling her and she did not like their behavior. When she became physically aggressive, she was maced in the face." § 87(2)(b) complained of a burning sensation in her eyes. § 87(2)(b)

**Allegation A—Force: PO Sheryce McCollough used physical force against § 87(2)(b)**

**Allegation C—Force: PO Sheryce McCollough used pepper spray against § 87(2)(b)**

When the officers came to § 87(2)(b)'s school and said they wanted to speak to her, § 87(2)(b) had no indication that she was going to be arrested (enc. 4C-4D). The officers told her that they wanted to take her to the stationhouse to question her about an incident involving her and a female on a bus. § 87(2)(b) took out her phone to call her grandmother and tell her that she was going to the stationhouse. PO McCollough said, "Give me your phone," and grabbed the front of § 87(2)(b)'s hoodie and pushed her into the chair. PO McCollough grabbed § 87(2)(b)'s ponytail, wrapped it around her hand, and pulled her head back. § 87(2)(b) was handcuffed while sitting in the chair. She kicked her feet because she was trying to push herself

into a proper seated position. She never tried to kick an officer, and did not do anything else with her arms or her body. § 87(2)(b) estimated it took the officers five minutes to handcuff her, and that PO McCollough told her to “stop resisting” between ten and fifteen times. While PO McCollough was attempting to handcuff § 87(2)(b) PO McCollough said, “If you don’t stop, I’m going to mace you,” two times. While § 87(2)(b) was handcuffed to the chair, PO McCollough then sprayed her in the face from approximately one foot away. Two EMTs arrived and they flushed out her eyes. She was then taken to § 87(2)(b), where her eyes were flushed again.

§ 87(2)(b) § 87(2)(b) said in her phone statement that when the officers told § 87(2)(b) she was under arrest, she “became belligerent and very disrespectful” and “would not comply” with the officers (enc. 5A). When the officers tried to handcuff her, she kicked, screamed, cursed, and wished death on the officers’ families. An officer pepper sprayed her. § 87(2)(b) § 87(2)(b) never saw an officer touch § 87(2)(b) or her hair.

§ 87(2)(b), § 87(2)(a) 160.50

PO McCollough noted in her memo book that § 87(2)(b) “resisted being arrested on an open 61 and was maced while attempting to cuff. Deft. did behave violently throughout and resulted in ESU being called to scene” (enc. 6H). In her interview, PO McCollough stated that she and her partners went to the school with the intention of arresting § 87(2)(b) (enc. 6M-6O). PO McRae explained to § 87(2)(b) that she was going to be arrested, and PO McCollough asked § 87(2)(b) to place her hands behind her back. § 87(2)(b) had her phone in her hand, and PO McCollough told her to put it away multiple times because her hands needed to be empty in order to place her in handcuffs. § 87(2)(b) stated that she would not be placed in handcuffs and became belligerent. She kicked her legs, moved her arms, and said things such as, “Get the fuck off of me. Go to hell. I hope you die; I hope your kids die,” in response to being arrested. When the officers tried to grab her arms, she twisted her body, moved around, and was generally resisting giving the officers her hands. PO McCollough was able to grab one of her arms, and told § 87(2)(b) at least two times to stop resisting or she would be pepper sprayed. PO McCollough removed her pepper spray and shook it to show § 87(2)(b) “that she was serious about using it.” She estimated that she had been struggling with § 87(2)(b) for approximately three minutes when she sprayed her. She released one burst of pepper spray and was standing approximately one foot away from § 87(2)(b) s resistance was the only reason why she sprayed her. § 87(2)(b) fell to the floor because she was continuing to fight the officers, and PO McCollough and PO McRae fell to the floor as well. PO McCollough grabbed § 87(2)(b) s other hand and placed it in the remaining cuff. Either PO McRae or PO Melendez helped her grab the second arm. After § 87(2)(b) was sprayed, it took approximately one minute for PO McCollough to handcuff her. PO McCollough never grabbed § 87(2)(b) s ponytail or yanked her head backwards by pulling her hair, and she never saw another officer do this; however, she did state that she tucked § 87(2)(b) s hair inside of her shirt because it was “messed up.” ESU was called to the scene because § 87(2)(b) s behavior was “violent and erratic,” and Sgt. Zaikowski thought that ESU might need to transport § 87(2)(b) to the hospital and the stationhouse. § 87(2)(b) received medical treatment for her burning eyes from EMS at the school and from doctors at the hospital.

PO Melendez wrote that “Female perp resisted while trying to subdue her...female was maced...perp continued to flare her arms/kick/spit; additional units were called” in his memo book (enc. 7B). In his interview, PO Melendez stated that after § 87(2)(b) was told that she was going to be arrested, she said, “I’m not fucking going anywhere” (enc. 7E-7F). PO McRae tried to grab her right arm, but § 87(2)(b) smacked his hand away. § 87(2)(b) resisted by moving her arms, kicking her legs, and spitting. PO McCollough and PO Melendez told § 87(2)(b)

§ 87(2)(b) to stop resisting and to place her arms around her back. After PO McRae struggled with § 87(2)(b) for approximately two minutes, PO McCollough took out her pepper spray, shook it, and sprayed one burst into § 87(2)(b)'s eyes. PO McCollough was approximately one foot away from § 87(2)(b) when she pepper sprayed her. § 87(2)(b) fell to the ground, and PO McRae was able to grab both of her arms and place her in handcuffs. It took PO McRae “a couple of seconds” to handcuff § 87(2)(b) and neither PO Melendez nor PO McCollough assisted with handcuffing § 87(2)(b). § 87(2)(b) kicked a chair when she was rolling, but that was the only point that a chair was involved. PO Melendez never saw PO McCollough touch or pull § 87(2)(b)'s hair.

Patrol Guide procedure 203-11 states that only the amount of force necessary to overcome resistance will be used to effect an arrest (enc. 1A-1B). If verbal commands are not effective in overcoming physical resistance, pepper spray may be used in arrest situations that require the use of physical force, according to Patrol Guide procedure 212-95 (enc. 1C-1F).

§ 87(2)(g), § 87(2)(b)

**Allegation A** § 87(2)(g), § 87(2)(b)

**Allegation C** § 87(2)(g).

**Allegation B—Discourtesy: PO Sheryce McCollough spoke rudely to** § 87(2)(b)

§ 87(2)(b) stated that when PO McCollough grabbed her ponytail, she said, “Cheap-ass hair” (enc. 4C-4D).

PO McCollough stated that she never said anything about § 87(2)(b)'s hair, and she never said, “Cheap-ass hair,” or heard another officer say this (6M-6O). PO Melendez corroborated this (enc. 7E-7F).

§ 87(2)(g), § 87(2)(b)

**Allegation B** § 87(2)(g).

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g), § 87(2)(b)

Pod: 8

Investigator: \_\_\_\_\_

	Signature	Print	Date
Supervisor:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date